

The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. (This is a GIL.)

December 31, 2007

Dear Xxxxx:

This letter is in response to your letter dated December 6, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is in the business of leasing and selling mobile offices and storage related products throughout the United States. Included in these products are portable classrooms.

We have sold several classrooms to XYZ during the past several months and have billed the Illinois sales tax on those transactions. They stated that they had Manufacturer's Purchase Tax Credit available to offset the sales tax that was charged on the sale of the classrooms. We researched the tax credit and found that the credit could only be applied to the purchase of manufacturing machinery and equipment.

Since we have not had a great deal of experience with the Manufacturer's Purchase Credit, we contacted the Illinois Department of Revenue Sales Tax Division and explained our situation to them. They advised us that the purchase of the classrooms would not be considered qualifying manufacturing equipment and the credit could not be applied against the sales tax on those units. They stated that they would not recommend that we accept the credit against the sales tax as we would be responsible for the payment of the tax upon audit.

XYZ has disputed the above finding. Therefore, we request a letter ruling indicating whether the Manufacturer's Purchase Credit would be applicable to the purchase of the classrooms. If it is determined that the credit can be applied to the sales tax on the purchase of the units, please advise what information we need to get from the customer in order to support the credit.

Your assistance in this matter is greatly appreciated. If you have any questions regarding the above, please contact me.

DEPARTMENT'S RESPONSE:

The State of Illinois provides a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. 35 ILCS 105/3-85; 35 ILCS 110/3-70. The credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption.

"Production related tangible personal property" includes all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 2-45 of the Retailers' Occupation Tax Act takes place, and all tangible personal property used or consumed by a manufacturer or graphic arts producer in research and development regardless of use within or without a manufacturing or graphic arts production facility. (See 35 ILCS 105/3-85).

The Department's regulation at 86 Ill. Adm. Code 130.331(b)(4)(D) provides that tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production material handling, receiving, quality control, inventory control, storage, staging and packing for shipping or transportation are considered production related. All tangible personal property used or consumed by a manufacturer in research and development regardless of use within or without a manufacturing facility is considered production related personal property. 86 Ill. Adm. Code 130.331(b)(3)(C). Office supplies, computers, desks, copiers and equipment which are used for sales, purchasing, accounting, fiscal management, marketing and personnel recruitment or selection activities, even if such use takes place within a manufacturing or graphic arts production facility are not considered production related personal property. 86 Ill. Adm. Code 130.331(b)(5)(B). Tangible personal property used or consumed outside the manufacturing facility, including tangible personal property listed in subsections (b)(4)(D), with the exception of tangible personal property used or consumed for research and development purposes, is not considered production related. 86 Ill. Adm. Code 130.331(b)(5)(D).

A mobile classroom would not generally qualify as tangible personal property used or consumed in a production related process in a manufacturing facility where a manufacturing process takes place.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Richard S. Wolters
Associate Counsel

RSW:msk